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Department of Homeland Security U.S. Coast Guard

DEEPWATER PORT THIRD PARTY CONTRACTING HANDBOOK

DEEPWATER PORT LICENSE APPLICANT HANDBOOK FOR THE SELECTION OF, AND GUIDANCE FOR, THIRD-PARTY CONTRACTORS

RECORD OF CHANGES

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CHAPTER 1

INTRODUCTION AND OVERVIEW

Section 1-1: Background

The Maritime Transportation Security Act of 2002 (MTSA) amended the Deepwater Port Act (DWPA) of 1974, 33 United States Code (USC) 1501, et seq., to include natural gas. This allowed for the construction and operation of offshore facilities to import and process natural gas, for distribution through the country's pipeline infrastructure.

The DWPA stipulates that no individual, public or private corporation, partnership or other association, or government entity may engage in the ownership, construction, or operation of a DWP except in accordance with a license issued pursuant to the DWPA. This Act specifically requires the Secretary of the U.S. Department of Transportation (DOT)("the Secretary") to approve, (approve with conditions), or deny any license application. The Secretary has further delegated this authority to the Administrator of the Maritime Administration (MARAD), and the processing of license applications to the Commandant of the U.S. Coast Guard (USCG).

Upon receipt of a license application, the USCG and MARAD, in cooperation with other involved Federal agencies and departments, shall comply with the National Environmental Policy Act of 1969 (NEPA), 42 USC 4332, et seq. In order to comply with NEPA, an environmental analysis and review must be conducted for each DWP license application that is submitted. To accomplish this, the USCG typically utilizes a Federal Acquisitions process to hire a Government contractor in order to provide support and assistance in the performance of the environmental analysis and review required by NEPA.

Section 1-2: Program Purpose and Objectives

The DWPA mandates strict and detailed time limits throughout the application decision process. However, the Government contracting process to hire an environmental contractor may take as long as three months to finish. Currently, the existing contracting process can not begin until after the license application has been submitted, which means that the months it takes to finish the contract process are subtracted from the mandated DWPA time line. This 'lost' or down time cannot be added on to the end of the DWPA process. This compression of an already tight time frame could adversely affect the quality of documents being used to reach decisions on an application.

In an attempt to be more efficient, provide increased customer service, and to help elleviate the time lag in contractor selection and hiring, the USCG has adopted a *voluntary* process that will allow the applicant to directly hire a contractor utilizing a third party contract to assist the USCG to comply with NEPA.

This handbook provides guidance on how to solicit, screen, select and award a third party NEPA support contract, along with outlining the tasks, duties, responsibilities and timeline to comply with the NEPA requirements under the DWPA. The third-party contractor hired under this contracting mechanism will provide assistance to the USCG's Office of Operating and Environmental Standards (G-MSO). Use of this contracting mechanism will result in a more efficient utilization of USCG resources, improve customer service to the applicant and minimize the potential for adverse impacts during the DWP license review process resulting from delays in the environmental review and analysis.

In the context of the Coast Guard's program, third-party contracting involves the use of an independent contractor to assist the Government's staff in its environmental review and analysis of a license application. Under this voluntary program, the independent contractor is:

- o Selected by, and works under the technical direction of, the G-MSO staff;
- Responsible for conducting environmental analyses and preparing documentation, including environmental assessments (EAs) and environmental impact statements (EISs); and,
- Paid by the project applicant(s).

Third party contracting provides both the Government and project applicants with additional flexibility in satisfying the Coast Guard's NEPA responsibilities. It also complements other procedures presently in place for the environmental review of DWP projects.

Section 1-3: Prefiling Recommendation

If a DWP license applicant intends to utilize the third-party contracting mechanism, it is strongly recommended the process be started **BEFORE** a DWP application is filed with the USCG. If the process isn't started until the DWP license application is filed, then the full benefit of the program may not be fully realized. Applicants should meet with the USCG in advance to discuss any questions or concerns they may have relating to this program. This will enable timely execution of the third party contracting process once it is commenced.

Section 1-4: Disclaimer

Nothing in this handbook shall be construed to alleviate the USCG's responsibility for complying with NEPA requirements or other existing and applicable laws or regulations. This information has been provided for guidance only, and may not be all-inclusive. The USCG reserves the right to make amendments, changes, additions, and/or deletions to this document in order to meet applicable laws, regulations, policy or requirements relating to the administration of the license application and for compliance with NEPA. The license applicant understands that third party contracting is a voluntary program and that the applicant is neither compelled to utilize this process, nor will an applicant be penalized should this process not be employed.

Section 1-5: Acronyms

ACOE : Army Corps of Engineers

CAA : Clean Air Act

CFR : Code of Federal Regulations
COMDTINST : Commandant's Instruction
CZMA : Coastal Zone Management Act
DOT : Department of Transportation
DHS : Department of Homeland Security

DWPA : Deepwater Port Act
DWP : Deepwater Port

EA : Environmental Assessment
EIS : Environmental Impact Statement
EPA : Environmental Protection Agency
FONSI : Finding of No Significant Impact

FWS : Fish and Wildlife Service

G-LEL : Coast Guard Office of Environmental Law

G-MSO : Coast Guard Office of Vessel and Facility Operating Standards

LNG : Liquefied Natural Gas
MARAD : Maritime Administration
MMS : Mineral Management Service
NEPA : National Environmental Policy Act

NOAA : National Oceanographic & Atmospheric Administration

NPDES : National Pollution Discharge Elimination System

OCI : Organizational Conflict of Interest

POC : Point of Contact
RFP : Request For Proposal
ROD : Record of Decision
TR : Technical Representative

USC : United States Code USCG : U.S. Coast Guard

Section 1-6: Regulatory References

Title 18 Code of Federal Regulations 380.7

Title 33 United States Code 1501 (Deepwater Port Act of 1974)

Title 33 Code of Federal Regulations part 148, Deepwater Ports

Title 40 Code of Federal Regulations parts 1500-1508

Title 40 Code of Federal Regulations 1506.5(c). Maritime Transportation Security Act of 2002

National Environmental Policy Act of 1969 (NEPA), 42 United States Code 4332

Dept. of Transportation Order 5610.1C

Commandant Instruction (COMDTINST) M16475.1D series

Clean Air Act (administered by EPA)

Coastal Zone Management Act

Endangered Species Act (administered by NOAA and FWS)

National Historic Preservation Act

CHAPTER 2

THIRD PARTY CONTRACTING

Section 2-1: Selection Process Overview

The following are a list of sequential steps to be followed by an applicant, prospective third-party contractors and the USCG.

The applicant shall:

- O Draft a RFP¹. The RFP will contain a list of selection criteria and an explanation of how the screening process will be used by the applicant to select the best candidates from the contractors who respond to the RFP. The same RFP must be sent to each prospective third-party contractor;
- o Identify at least five (5) contractors who will receive the RFP;
- o Execute a "confidentiality" agreement consistent with the applicant's normal business practice with all potential contractors prior to issuance of the RFP by the applicant;
- o Provide each prospective contractor with the RFP, a copy of this handbook, and any other relevant guidance to assist in drafting a reply proposal;
- Establish a timeframe in which the contractors must submit a completed proposal to the applicant; and,
- o Maintain communication with the prospective contractors and answer any questions concerning the RFP.

Each prospective third party contractor shall:

- Prepare a proposal that demonstrates satisfaction of the criterion listed in the RFP;
- O Direct all inquiries and questions to the applicant;
- Submit the proposal, including technical and cost proposals, (technical proposals to include manager and personnel information, and a timeline identifying both NEPA and DWPA milestones) to the applicant within the specified time frame;
- Submit all required Organizational Conflict of Interest (OCI) documents² at the time of proposal submission; and,
- Submit all required Indemnification and Hold Harmless Forms at the time of proposal submission.

¹ To assist applicants in developing a RFP for use by third-party contractors, specific guidelines appear in Section 2-2, along with a sample RFP in Appendix A.

² Guidance concerning the Coast Guard's OCI requirements is in Chapter 4. Examples of forms may be found in Appendices D, E and F. Questions concerning OCI matters should be directed to the Office of Environmental Law (G-LEL), at (202) 267-0053.

The applicant shall:

- Review proposals, including OCI documentation, for adequacy with respect to technical, managerial, and personnel qualifications, to ensure minimum standards have been met (see Section 2-3), completeness of the proposal, and identify any disqualifiers (see Section 2-4);
- Select the three best qualified candidates;
- Submit the selected qualified contractor packages, including OCI statements, technical and cost proposals (with time-line), to G-MSO;
- O Submit an OCI³ certification for each proposal submitted, stating that the applicant has reviewed both the OCI statement and abstract, and that the applicant has determined that the contractor is capable of impartially performing the environmental services required under the contract, taking into account any mitigation plan submitted by the contractor;
- Submit the executed Indemnification and Hold Harmless Forms for each submitted proposal; and,
- o Provide G-MSO with a list of all less qualified contractors along with a statement identifying the main reason(s) for non-selection.

Upon receipt of this information from the applicant, the G-MSO staff shall:

- Review each contractor proposal of the three best qualified candidates submitted by the applicant for completeness, and evaluate each proposal against the USCG minimum threshold standards contained in Section 2-3;
- o Make a final selection of the third party contractor within five (5) business days; and,
- o Provide notification of final selection to the applicant, along with an explanation of how selection was determined, including reasons the other contractors were not selected.

Upon receipt of notification of the USCG's final selection, the applicant shall:

- o Immediately notify the prospective contractors in writing of their selection or non-selection;
- Create, finalize and award the third party contract within fifteen (15) business days of receiving the USCG's final selection; and,
- o Provide a copy of the completed and signed contract between the applicant and the third-party contractor to G-MSO.

Following, final contractual agreements, the third party contractor shall:

- o Send a qualified representative to work at CG Headquarters, office of G-MSC, to act as a direct liaison for the duration of the project.
- o Hold a project "kick-off" meeting with the application, contractor and appropriate government agencies, including the USCG and MARAD.

The following are supplemental notes and amplifying information in the third-party contractor selection process:

³ The format of an applicant's OCI certification and endorsement can be found in Chapter 4 and in Appendix D.

- o Throughout this process, and until a contract is awarded, the applicant shall be the sole point of contact for both the USCG and any potential third party contractors;
- At an applicant's request, G-MSO may choose to host a presentation (question-answer session with details for the proposed work) for the three (3) best-qualified prospective contractors. In this and other similar matters, the applicant will serve as the liaison between proposed contractors and the USCG;
- o The selected contractor must not have any OCIs, or the appearance of an OCI (or be able to mitigate any OCI to the satisfaction of the USCG).
- Following contractor selection, G-MSO will issue an approval letter to the applicant. This letter will clarify any details and/or resolve any issues that remain outstanding following review of the selected third-party contractor's technical proposal. A separate statement will be provided to the applicant that provides side-by-side comparison of each prospective contractor, showing the weighted selection criteria and rationale used by G-MSO to make their selection. This information may be shared with the two (2) other non-selected contractors to assist in answering their questions.
- As soon as practical, but no later than fifteen (15) days after receipt of the USCG's final selection, the applicant will award a contract. Failure to award within this time frame may cause significant delays in the DWP license application review process. The applicant and the contractor will determine the appropriate method of and schedule for payment of the contractor by the applicant. Because the applicant will actually award the contract to the third-party contractor, it will be the applicant's responsibility, with input provided by the USCG, to answer any questions from contractors who were not selected, if necessary. The applicant may also include additional provisions within their contract that the USCG agrees are not inconsistent with this Handbook (see section 4-5).
- The liaison to the USCG may not be fully utilized from time to time, and will be permitted to complete other tasks and work not necessarily related to the DWP project, so long as the work does not conflict with the project or the USCG's interests.
- O The "kick-off" meeting with the applicant, third-party contractor and the federal agencies is intended to begin the EIS process, receive any additional information from the applicant about their project, including any proprietary information, facilitate communications, review expectations, and complete an initial timeline for the project.

Section 2-2: Preparation of a Request For Proposal

A sample RFP can be found in Appendix A of this handbook.

At a minimum, an applicant's RFP to a prospective third party contractor should consist of:

- 1) An introduction or cover section, that includes:
 - The identification of the applicant with a designated point-of-contact;
 - o The stated purpose and/or goals of the RFP;
 - A timeline or deadline for submission;
 - o A statement that the RFP is **not** a Federal procurement; and,
 - O A statement that the parties agree to hold harmless and indemnify the USCG. (See Disclaimers in Section 1-4; and Indemnification and Hold Harmless information in Section 4-4 and *Appendix G*.)

- 2) A section describing the third-party arrangements, that contains:
 - A statement that USCG staff will be solely responsible for determining the scope of the environmental document and the technical quality of the work; and,
 - A notation that the third-party contractor will prepare the environmental document under the technical direction of USCG staff. The USCG will provide the applicant with a written monthly progress report identifying progress, associated costs, potential problems, and other relevant information. The applicant may, but is not required to, use this report in determining payment schedule.
- 3) A section describing the third party selection process (as outlined in Section 2-1).
- 4) A section describing the third party screening criteria and the USCG's minimum threshold standards (see Section 2-3) that will be utilized to make preliminary and final selections.
- 5) An overview of the proposed DWP project and alternatives, including at a minimum, the following:
 - o The general purpose of the DWP project;
 - o A detailed description of the project's location;
 - A description of the pipeline routes and location(s);
 - o A description and location of the facilities and the design parameters;
 - A description of the construction schedule, draft operating and maintenance procedures, and decommissioning schedule;
 - A complete list of available data pertinent to the project's environmental review; and,
 - Any other DWP information as G-MSO may require.
- 6) A detailed description of the services and tasks required of the third-party contractor, including, but not limited to the following:
 - Preparation, printing, and mailing of any official documents and/or required notices;
 - o Providing paper and electronic copies of all documents, notices, forms, letters and reports to the G-MSO staff;
 - O Develop appropriate handouts and easel boards, make arrangements for and participate in public scoping and comment meetings on the EIS and DWP license. Make logistical arrangements for meeting rooms, court reporter, and other relevant needs. Prepare reports that summarize the meetings' results;
 - o Develop and maintain a database of all involved parties;
 - o Prepare data requests for additional environmental and operational information from the applicant, if needed;
 - Complete data analysis in order to assess potential impacts;
 - o Prepare appropriate NEPA documents to meet the requirements of USCG implementation guidelines (COMDINST M16475.1D), NEPA, the National Historic Preservation Act, Federal Endangered Species Act(s), and any other applicable federal or state environmental requirements as well as any additional requirements of the USCG starf. The environmental documents shall include:

- Characterizations of, and impact assessments for, all resource areas having the potential to be significantly affected by the proposed facilities' construction, operation, maintenance and decommissioning. Level of significance will also be identified;
- Analyses of appropriate alternatives: action (permit approval even though the
 applicant may have considered several different physical locations) and no action
 (albeit that there may be several liquefied natural gas delivery options under the
 no action alternative). Alternatives may also include more than one physical
 location for the Port and/or associated delivery systems;
- Mitigation designed to reduce significant negative impacts to acceptable levels;
 and,
- Consideration of written responses to the USCG addressing all issues raised during the scoping period.
- Assess the adequacy of potential environmental issues, and perform a thorough review of such issues in order to advise the G-MSO staff of any potential data gaps, analysis shortcomings, or potential concerns that may affect the adequacy of the NEPA document;
- Analyze and prepare draft responses to comments on the draft and final environmental documents;
- o Prepare a Biological Assessment, if appropriate;
- o Prepare a Finding of Consistency with relevant coastal plans, if appropriate; and,
- o Identify the requirement for a (mitigation) compliance-monitoring program.
- 7) Declaration of the USCG's and applicant's proposed schedule, with dates, for the following key milestones:
 - o Submission deadline of proposals from prospective contractors;
 - o Submission of proposals and other technical documents to the USCG;
 - o Selection of the contractor by the USCG:
 - o Submission of the final application for a DWP license to the USCG & MARAD;
 - Submission of the proposed Notice of Intent by the contractor, and the mailing list to the USCG;
 - Submission of the preliminary draft environmental document for USCG & MARAD's review;
 - O Distribution of the interim draft environmental document to the cooperating federal agencies⁴;
 - Submission of the final draft environmental document to USEPA⁴;
 - O Submission of the proposed and preliminary Mitigation Monitoring Plan to the USCG (will be finalized as a part of the operations manual in the post licensing phase);
 - o Submission of the initial Federal Register Notice to the USCG;
 - Mailing of the draft environmental document⁴:
 - Submission of the preliminary final environmental document to the USCG & MARAD⁴;

⁴ The applicant should not be permitted to view the environmental document until it is made public. This is to maintain independence and veracity of the environmental contractor. The applicant will be afforded opportunity to submit any comments, equal to the public.

- Distribution of the interim final environmental document to the cooperating federal agencies⁴;
- Submission of the final environmental document to USEPA⁴
- o Submission of the final Federal Register Notice to the USCG⁴; and,
- Mailing of the final environmental document⁴.
- 8) A requirement that each bid address OCI by including:
 - Either an OCI Representation Statement or an OCI Disclosure Statement, indicating that the third party contractor has no financial or other conflicting interest in the outcome of the project;
 - o An OCI Questionnaire (see Appendix F); and,
 - An abstract, listing all USCG-regulated entities that the third-party contractor (and any subcontractors) has had a business relationship with (and whether that relationship results in either no conflict, or a real or perceived conflict).

Detailed information concerning the USCG's OCI disclosure requirements is presented in Chapter 4.

- 9) A list of the information the third-party contractor's proposals must contain, including:
 - A description of their technical and managerial approach for preparing the environmental document and a management plan for the project;
 - The disclosure of any proposed subcontractors and OCIs and Indemnification and Hold Harmless Forms for them;
 - A demonstration of the qualifications and experience (curriculum vitae) of both the third-party contracting firm and the key personnel (including subcontractors), including:
 - Listing and description of similar contracts and POCs;
 - Familiarization with NEPA requirements;
 - Familiarization with related USCG regulations;
 - Previous work completed for the USCG, EPA or other federal agencies; and,
 - EA's or EIS's completed and for whom.
 - O A proposed schedule for completing major work tasks (which highlights any differences from the applicant's proposed schedule as presented in the RFP). Any changes to the schedule presented in the RFP must be fully justified;
 - o A statement disclosing any potential OCI, and any proposed mitigation;
 - o An itemized estimate of costs (for a firm, fixed-priced contract);
 - o Financial statements of the company for the previous 3 years and disclosure of any bankruptey, insolvency or similar proceedings filed by or against the company; and,
 - An executed Indemnification and Hold Harmless Form.
- 10) A statement that the applicant, rather than the USCG staff, will answer any exessions from non-selected contractors following the contract award. (G-MSO will provide the applicant with information on how selection was done, including the rationalis used in ranking the final selection.)

Section 2-3: Selection Criteria and Minimum Threshold Standards

Applicant's Selection Criteria: The applicant will review, evaluate and prioritize each proposal that has been received prior to the submission deadline, against the screening criteria listed in this section. Once all of the proposals have been prioritized, the applicant shall select the three (3) highest scoring contractors for forwarding to the USCG for final selection.

The following are "go, no-go" criteria to determine if a potential contractor has met the minimum standards. A proposal that fails to meet minimums for <u>all</u> of these criteria (where applicable) will not be considered for further review:

- o All documents and materials requested in the RFP have been provided;
- o All key items listed in the RFP or discussed in follow-up clarification meetings have been supplied or addressed;
- o OCI questionnaire and the OCI statement have both been completed and provided;
- OCI mitigation or explanation documents included (if applicable only if OCI has been noted);
- o Adequate financial resources demonstrated, with explanations of any negative aspects of the latest Dun & Bradstreet, and copies provided of the latest annual audit of firm; and,
- Executed Indemnification and Hold Harmless Forms.

Each proposal shall be gauged against each of the following standards and criteria. These items shall be weighed equally, and this section will carry a majority (60%) of the combined maximum score in the applicant selection process (12% each):

- Level of familiarity and experience with environmental regulations and procedures, for satisfying NEPA, USCG and related requirements;
- o Contractor's experience and ability to prepare NEPA documents of repeatable quality must be demonstrated;
- Extent of the contractor's history and prior experience in managing major NEPA
 documents, preparing NEPA environmental documents for construction projects,
 facilities, environmental consulting work, and/or any other history of ecological work in
 the past three years;
- Magnitude and reasonableness of the contractor's rates and total cost estimates for the project; and,
- Extent of contractor's history and work experience with the region where the applicant's facility will be located, with the adjacent coastal State's agencies, and with the other federal agency offices that will be involved (local and regional EPA, NOAA, MMS, ACOE, etc. offices).

In this third section, each proposal shall be gauged against each of the following standards and criteria. These items shall be weighed equally, and this section will carry a minority (40%) of the combined maximum score in the applicant selection process (8% each):

• Extent of the contractor's experience with LNG, outer-continental shelf activities, and marine transportation;

- o The amount of experience and education of the prospective contractor's key personnel (project manager, deputy project manager, environmental/NEPA specialists, CG liaison, subcontractors and administrative support personnel who will be involved);
- Scope of the contractor's financial resources and the company's level of financial stability;
- o Ability to assign and commit sufficient key personnel for the duration of the project; and,
- O Degree of familiarity with how to proceed in the environmental evaluation of the proposed project, understanding of the available data, identification of possible issues and a description of needed supplemental information.

<u>USCG's Minimum Threshold Standards</u>: Once the applicant has completed the three-step preliminary screening of the proposals, and has selected the three (3) highest scoring proposals for submission to the USCG, the G-MSO staff will then evaluate each proposal forwarded, pursuant to the following criteria and standards:

Each proposal must satisfactorily pass all of the following "pass or fail" criteria:

- USCG's OCI requirements have been satisfactorily met by the prospective contractor, their key personnel and any subcontractors, including satisfactory explanations and/or mitigating circumstances for any identified OCI's, if applicable;
- o Favorable OCI certification for the prospective contractor has been received from the applicant; and,
- Satisfactory completion of an Indemnification and Hold Harmless form (see section 4-4 and *Appendix G*).

Each proposal will then be compared and evaluated against the following criteria:

- o Demonstrated ability to meet schedule requirements;
- o Demonstrated ability to produce a quality product; and,
- Adequate level of experience, in personnel education, work history and compliance with NEPA.

Administrative Notes:

- Other selection criteria, not otherwise identified, may be applied in the selection process and for making the final contractor selection. Any criteria, performance factors or threshold standards not listed or previously identified will be fully disclosed and explained to all applicants in order to afford an opportunity to provide any additional or amplifying information.
- o Final selection of a third party contractor will be made by the USCG within five (5) days of receiving the pre-screened and qualified packages from the license applicant. G-MSO will provide written notification of the final selection to the applicant.
- o Additionally, G-MSO will provide a statement to the applicant that provides information on how each prospective contractor faired against the criteria.
- As soon as practical, and within fifteen (15) days, the applicant will award acontract to the third-party contractor selected by the USCG. The applicant and the contractor will determine the appropriate form of payment for services.

O As soon as practical, a liaison from the third party contractor must be prepared to begin work at CG Headquarters, office of G-MSO, for the duration of the project. This need not be the project manager, however, the liaison must be a key project officer.

Section 2-4: Disqualifiers.

A prospective third party contractor may be disqualified from the selection process or from final selection, based upon any of the following:

- o Lack of all Indemnification and Hold Harmless Forms;
- o Failure to meet all of the "go, no-go" criteria listed in the applicant's selection process in section 2-3;
- o Failure to pass all of the USCG's "pass or fail" items noted in section 2-3;
- Lack of an acceptable OCI Statement, or the existence of an identifiable OCI (relative to the contractor, its key personnel or any proposed subcontractor) that cannot be mitigated to the USCG's satisfaction⁵;
- o Financial instability of the contractor, including but not limited to, recent record of bankruptcy that could affect the scope of work required;
- o Incomplete or inadequate proposal submitted; and,
- O Submission of a proposal after the applicant's deadline.

⁵ It is the applicant's responsibility to review all OCI materials submitted as part of each proposal received to determine whether the candidate is capable, in the applicant's opinion, of impartially performing the environmental services required under the third-party contract taking into account any mitigation plan submitted by the candidate. The applicant is not required to conduct independent investigations or inquiries to verify or determine OCI's of the prospective contractors.

CHAPTER 3

TASKS, RESPONSIBILITIES & ENVIRONMENTAL DOCUMENT REQUIREMENTS

Section 3-1: U.S. Coast Guard Responsibilities

Once the applicant has contracted with the selected third-party environmental contractor, the contractor will begin work for the USCG, as supervised by the G-MSO staff. A workspace, including a phone and a computer, will be provided at CG Headquarters.

Although the applicant will pay for the contractor's work, it will have no technical direction of the work done under the contract, and will not be able to review the work products before their release to the public. The G-MSO staff will have technical direction over the scope, content, and quality of the contractor's work, and will independently evaluate the results of the contractor's work. G-MSO will be responsible for communicating requests to the applicant for additional material not originally provided or for clarification of information, and to ensure these items are within the scope of the contract for the purpose of complying with NEPA. Similarly, the USCG will vet any applicable requirements or requests to the applicant from any of the other federal agencies. The applicant will have the discretion of including any new or additional items within their contract with the third-party contractor that may be non-NEPA related, but are reasonably related to licensing issues.

Correction of Application Deficiencies: If essential information, critical to the integrity of the environmental document, is found missing from the applicant's environmental report and related documents, the USCG will request that the third-party contractor obtain the information by:

- o Preparing a data request, which the G-MSO staff will review and forward to the applicant for completion; or
- Performing supplemental studies or data gathering needed to acquire the missing information.

General Duties: The staff at G-MSO will be required to:

- Monitor contractor performance, daily work, and completion of tasks;
- o Provide a quarterly report on progress (i.e.: % completed);
- Review all forms, letters, and documents from the contractor for consistency and accuracy;
- o Track contractor costs and expenses for quality assurance purposes;
- O Assist with public scoping duties of contractor;
- o Advise the applicant of any requests for additional information;
- o Ensure full compliance with the requirements of NEPA; and,
- O Screen inter-agency requests for applicability prior to tasking the contractor, and dialog with the applicant for any items that are outside the scope of the original contract.

Section 3-2: Contractor Deliverables

Purpose: The purpose of the third-party contract is to provide assistance to the USCG for the completion of the environmental review, and the preparation of environmental documents pertaining to a LNG DWP. The contractor shall provide expert advice by providing analysis, technical guidance, and recommendations on EIS development, including all relevant issues, and impact assessments.

Objectives: This scope of work is intended to identify and define all necessary environmental compliance requirements and undertake the necessary measures to mitigate any deficiencies in the processing of a license application for a LNG DWP. The contractor shall perform analysis, evaluation, and documentation to ensure that both:

- 1) The USCG has adequately considered the potential for, and significance of, impacts to the environment in its process to recommend approval or disapproval of the license application; and,
- 2) If the government decides to approve the license application, the government's decision will be in full compliance with all applicable environmental protection requirements.

Tasks & Responsibilities: It is anticipated that applicants or other stakeholders will provide a majority of the information needed to evaluate the potential, or significance, of impacts to the environment. The contractor shall review this information to:

- Identify shortfalls;
- o Make recommendations to the USCG for resolution and acceptance;
- Assist with the administrative process of preparing and completing the environmental documents; and,
- o Complete the following services:
 - Inspect the accuracy, validity, integrity, and completeness of environmental information provided to the USCG by the DWP license applicant and/or other stakeholders;
 - Assist the USCG with a quarterly progress report to the applicant that includes cost estimates for services completed.
 - Assist the USCG with scoping and other public coordination activities associated with the development of the EIS;
 - Assist the USCG in coordinating environmental issues with other Federal agencies:
 - Identify and anticipate issues from information provided by the applicant in order to advise G-MSO of either or both:
 - (1) A significant environmental impact; or,
 - (2) A concern with evaluating the level of significance.
 - Identify information gaps that may hinder an appropriate evaluation of the environmental review, and provide recommendations to obtain the information;
 - Inspect the applicant's work at identifying and evaluating potentially significant environmental impacts or compliance requirements and, as needed, to independently identify and evaluate potentially significant environmental impacts;

- Identify appropriate options to resolve potentially significant environmental impacts, research the risks and benefits of each option relative to the needs of the USCG, the applicant, and other stakeholders; and provide recommendations on appropriate actions to mitigate significant impacts, when possible;
- Identify potentially conflicting environmental requirements, identify options for resolution, research the risks and benefits of each option, and recommend solutions to resolve potential conflicts;
- Assist G-MSO in ensuring that its decision to recommend approval or disapproval of the license application will be in full compliance with all appropriate environmental requirements;
- Prepare the USCG's Draft and Final EIS's for government approval; and,
- Maintain the administrative record of the preparation of the EIS.

The contractor shall take full responsibility, within the limits of a normal contractor-Government relationship, to advise and inform G-MSO of any and all environmental requirements and concerns, whether procedural or technical, related to the license application review process.

The third-party contractor may also be required to print and mail the environmental document to the public. Following public release of the document, the third-party contractor will organize, analyze, and prepare draft responses to public comments (including those comments filed by the applicant). However, G-MSO staff will review all responses prepared and retain final responsibility for them.

Section 3-3 Contractor Performance Requirements

Information Quality: The contractor shall use information that will either be obtained from public sources or provided through the USCG during the license application review process. The contractor shall perform research to identify appropriate and respectable public sources of information, when needed. It is expected that the license applicants, in the interest of expediting their license approval process, will provide a substantial level of background information and evaluations related to potential environmental effects from their proposed project. Other information is expected to be received from other government agencies and from non-government sources during the scoping and review processes for the preparation of the EIS. The contractor shall inspect the accuracy, validity, completeness, and integrity of this information. The contractor shall provide the USCG with an objective, technically valid, and institutionally acceptable analysis of the potential for significant environmental impacts from the proposed license. Additional information may be requested and obtained from the applicant, via the USCG, if studies or submittals are deemed to be incomplete or insufficient.

Scoping Plan: The contractor shall develop a scoping plan. The scoping plan shall contain a recommended scoping strategy and schedule, identification of anticipated/projected-interested parties (i.e., federal, state, local, and tribal governmental agencies and gravate individuals and organizations), appropriate methods/instruments to initiate contract and facilitate comments, as well as potential meeting sites. The contractor shall obtain approval from the Coast Guard's Technical Representative (TR) for the scoping plan.

O Scoping and Public Coordination: The contractor shall be responsible to identify and define the scoping and coordination needs for both the preparation and distribution of the EIS, and to identify all appropriate contacts and addresses for both formal and informal communications. The contractor shall be responsible for completing all logistical requirements for scoping and coordination efforts, such as providing arrangements for meetings. The contractor shall develop and maintain an active mailing list, identifying those parties to which the correspondence is to be sent. The contractor shall prepare a scoping plan for government review.

A variety of scoping methods/instruments may be appropriate for this effort. Specific methods, including their style and format, will need to be explored and established during the EIS process. Examples of methods/instruments may include:

- Formal correspondence to be sent to the various stakeholders, to obtain their initial input as well as follow-on comments;
- Public information brochures;
- Comment cards;
- Presentation materials;
- FAQ documents;
- Newspaper ads;
- A list of libraries and other sites at which NEPA materials will be available for public inspection;
- Meetings and meeting strategies; and,
- A website.
- o Implementation of the Scoping Plan: The contractor shall implement the scoping plan after approval from G-MSO. Implementation shall include making the necessary arrangements for meeting halls, recorders, special needs services, preparing handouts, etc. Appropriate methods, quantities, dates, and times of information dissemination and comment facilitation efforts (scoping meetings, publications, etc.) will be established, in consultation with G-MSO, during the development of the scoping plan. Implementation of the scoping plan and all associated activities will become part of the administrative record.
- Scoping Plan Organizational System: The contractor shall assist in developing an
 organizational system during the application review process, and comments will be crossreferenced by keywords used in the administrative record.
- Scoping Plan Comments: The contractor shall organize and compile all comments received from the scoping meetings, phone calls, questions/comments received via the website, if implemented, the docket management system, letters to the USCG and letters to other appropriate agencies. The comments shall not be paraphrased or in any way condensed or changed from the original submission. All comments, questions and correspondence shall become part of the administrative record.

Website Specifics: If approved as a part of the scoping plan, the contractor shall develop a website to advertise and disseminate information pertaining to the EIS. The website shall also solicit public comments on the EIS. The conceptual, preliminary, and final designs of a

website in support of the development of the EIS, shall be developed and coordinated with G-MSO in the form of written reports. These reports shall provide a description of the website layout, links, and interconnectivity. The contractor shall notify G-MSO of the date (as soon as possible after the scoping plan approval) when the website is ready to be made available to the public. The contractor shall ensure that the website remains active and accessible to the public, with a minimum of down time. The contractor shall ensure that the website will be in compliance with Section 508 of the Rehabilitation Act of 1973. The contractor shall provide a monthly status report outlining the amount of time the website was operable and accessible to the public, number of daily 'hits', and actions taken to correct and minimize website deficiencies.

Public Hearings: G-MSO will decide if a separate public hearing on the EIS is found to be necessary. If so, the contractor shall assist in the development of information to be presented at the meeting in order to afford the maximum dissemination of the information to the public. The contractor shall also assist the USCG in preparing for any adversarial public confrontations, USCG responses, and may even hold practice sessions in preparation of the hearing. The contractor shall attend the hearings, provide support to the USCG during the hearings, and provide a report summarizing the proceedings. The contractor shall deliver to the TR one hard copy and an electronic copy of the summary report within a week of the public hearing.

Advising the Government: As a result of the applicant's efforts, the contractor's investigations, the scoping effort, and stakeholder information, it is expected that various compliance issues, consultation requirements, pollution control standards, and permits will be identified. As these various issues and requirements are identified, the contractor shall provide to the Coast Guard's TR, a brief memorandum stating the impacts for each on the application approval process. This includes summarizing the purpose, stating the authority or source, providing appropriate mailing addresses, points of contact and names, and defining the standards and requirements that must be met. As a part of this advisory role, the contractor shall independently inspect the quality of information and analyses provided by the applicants and other stakeholders. As the subject matter expert on NEPA, the contractor's efforts shall be of sufficient technical detail to comply with NEPA. Examples of these types of requirements include, but are not limited to, cultural resources investigations, air quality monitoring, water quality permits, marine mammal protection, endangered species protection, coastal zone management, hazardous waste management, process water management, or storm water management. It is the contractor's responsibility to identify and define the various environmental protection requirements that may impact this license review process and to advise G-MSO on the appropriate means to ensure compliance.

Ensuring Compliance: The contractor shall assist G-MSO in executing whatever procedures may be needed to ensure compliance with various environmental requirements that may arise during the application review and the NEPA process.

Environmental Impact Statement: The contractor shall prepare a Draft and Firal EIS consisting of narrative, tabular, and graphic information which shall identify the physical, biological, cultural, aesthetic, and social-economic conditions of the site, and predict epotential impacts of the application approval on that setting. To facilitate review within the USCG, the contractor shall prepare preliminary, interim, and final versions of both the Draft and Final EIS prior to completing the documents for distribution outside of the USCG. All

of these documents shall be prepared in conformance with the requirements of 40 CFR 1500-1508, DOT ORDER 5610.1C, and COMDTINST M16475.1D series. The contractor shall prepare an appropriate number of copies in both electronic and printed versions, as needed to facilitate USCG and public review. Included in the EIS shall be a description of the proposed alternatives and their environmental consequences. For this EIS, the major alternatives consist of action (approve the license) or no action (disapprove the license). However, the no action alternative includes a variety of options for LNG delivery that must be evaluated in similar detail to the action alternative. Therefore, the evaluations in the EIS shall include a discussion of the necessary requirements, and the manner and degree to which the alternatives and the various no action options may, or may not, achieve compliance. The EIS shall be a separate and complete document. It is expected that engineering options will be available to mitigate any adverse effects or comply with applicable requirements for the action alternative. The contractor shall maintain close coordination with G-MSO to ensure that the development of the EIS is fully integrated within the license review process. The contractor shall be in frequent communication with the USCG throughout this process.

The EIS shall include, but not necessarily limited to, the following sections (see 18 CFR 380.7 and 40 CFR 1502.10 for additional guidance):

- o Cover Sheet;
- Executive Summary (including impact tables);
- o Introduction:
- o Description of Proposed Project and Alternatives;
- o Affected Environment;
- o Environmental Consequences (including cumulative Impacts);
- o Comparison of Alternatives;
- Conclusions (including unavoidable significant adverse effects) and Recommendations (mitigation measures, including mitigation monitoring plan);
- o Agencies and Sources Consulted;
- o List of Prepares and Contributors;
- o References;
- o List of Agencies, etc., copies were sent to;
- o Index:
- Comments and Responses (FEIS only); and,
- o Appendices and Other Technical Reports (including summary of biological assessment).

Additionally, the EIS should fully address the following resource topics (as applicable):

- Geology;
- o Soils and Sediments;
- o Water Resources;
- o Biological Resources (including wildlife, aquatic biology, migratory species, and threatened and endangered species);
- o Land Ownership, Land Use, and Recreation:
- o Socioeconomics;
- CZMA (Visual Resources/Aesthetics);
- o Air Quality:
- o Noise;
- o Cultural and Paleontological Resources;

- Reliability and Safety;
- o Transportation; and,
- Risk Management.

Publish and Mail: The contractor shall make arrangements to print and mail the Draft and Final EIS upon approval by G-MSO. The contractor shall also produce the documents on CD-ROM in an easy to read format. These CD-ROMs will be mailed to addressees who will most likely not have a significant level of interest in the project. The public mailing cannot occur before the Government's Notice of Availability appears in the Federal Register.

Compile and Organize Comments: After the completion of the draft EIS comment period, the contractor shall organize and compile all comments received via the scoping and public coordination efforts, the Docket Management System, letters to the USCG and letters to other appropriate agencies. These comments shall be organized according to the organizational system developed during the application review process. They shall be cross-referenced by keywords used in the administrative record. They shall not be paraphrased or in any way condensed or changed from the original submission. The contractor shall prepare a recommended response to all comments for review and acceptance by G-MSO. All comments, questions, and inquiries shall become part of the administrative record.

Administrative Record: The administrative record is the entirety of the information and data relied on to prepare the EIS. The record includes all data, information and analyses; either generated by other sources or obtained from other sources, used to support the analysis and documentation. It will essentially become the USCG's file as it relates to the action and can become the backup data used in court proceedings to both validate the NEPA process and support the USCG's decision. The contractor shall organize all data and information to compose the record in a current, accessible file, indexed by topic. The administrative record index is expected to evolve over the course of the EIS development, however, the contractor shall propose an initial index for Government approval with the first end-of-month progress report. Communications of all types (e.g., memoranda, internal notes, telephone conversation records, letter, minutes of meetings) shall be included, as well as public outreach materials, such as newsletters, newspaper advertisements, and other public notices. All data and reference material should be included as part of the administrative record (all references eventually cited in the EIS should be traceable to the administrative record). Should the legal sufficiency of the EIS be challenged, the time allowed for assembling and providing the administrative record for review is usually quite short. Therefore, the contractor shall maintain the administrative record throughout the entire EIS development process.

The contractor shall submit the index and a summary of the contents of the administrative record, including the number of hard copies and electronic copies of documents, as a part of the end-of-month progress report.

CHAPTER 4

CONTRACT ADMINISTRATION

Section 4-1: Organizational Conflicts of Interest - General

Definitions:

- The term "organizational conflicts of interest" means that a relationship or situation exists whereby a contractor, including chief executives and directors, to the extent that they will or do become involved in the performance of the contract, and proposed consultants or subcontractors, where they may be performing services similar to the services provided by the prime contractor, has past, present, or currently planned interests that either directly or indirectly, through a client, contractual, financial, organizational or other relationship, may relate to the work to be performed under the third-party contract, and may:
 - (a) Diminish its capacity to give impartial, technically sound, objective assistance and advice; or,
 - (b) Result in the contractor gaining an unfair competitive advantage.

The term OCI does not include the normal flow of benefits from the performance of the contract.

- O The term "affiliates" means business concerns that are affiliates of each other when either directly or indirectly one concern or individual controls or has the power to control another, or when a third party controls or has the power to control both.
- o The term "energy concern" includes:
 - Any person significantly engaged in the business of developing, extracting, producing, refining, transporting by pipeline, converting into synthetic fuel, distributing, or selling minerals for use as an energy source, or in the generation or transmission of energy from such minerals or from wastes or renewable resources;
 - Any person holding an interest in property from which coal, natural gas, crude oil, nuclear material or a renewable resource is commercially produced or obtained;
 - Any person significantly engaged in the business of producing, generating, transmitting, distributing, or selling electric power;
 - Any person significantly engaged in development, production, processing, sale or distribution of nuclear materials, facilities or technology; and,
 - Any person significantly engaged in:
 - (1) The business of conducting research, development, or demonstration related to an activity described in paragraphs (a) through (d); or
 - (2) Conducting such research, development, or demonstration with financial assistance under any Act, the functions of which are vested in, delegated or transferred to the Chair of the Commission.

Existence of OCI's: An OCI exists when the nature of the work to be performed may, without some restriction on future activities:

- o Result in an unfair competitive advantage to a contractor; and/or,
- o Impair the contractor's objectivity in performing the contract work.

OCIs typically exist where the contractor, its affiliates, employees or its subcontractors have a past or ongoing financial interest in a project that is covered by the third-party contract. For example, an OCI exists if the contractor:

- Has been involved with the applicant on the project before it is proposed to the USCG, or while it is pending before the USCG; or,
- o Has a financial or other interest in the outcome of the USCG's decision.

The contractor may work on the project for the applicant after G-MSO has made its final contractor selection, so long as there was no prior agreement(s) in place between the applicant and contractor.

Should there exist an apparent or real conflict of interest, the contractor's mitigation plan should describe the mechanism used to assure availability of, and access to, resources. In addition, it should include the mechanism used by the project manager(s) to gather resources to assure continuation and completion of assigned tasks when a real or apparent OCI occurs.

The applicant will review each OCI Statement and abstract to determine whether the contractor is capable of impartially performing the environmental services required under the contract. The applicant shall make this determination based upon the information provided to the applicant in the OCI statement, taking into account any mitigation plan submitted by the contractor. A format for this certification is included in *Appendix D*. All OCI materials submitted to G-MSO (including the contractor's OCI Statement, mitigation plans, and the applicant's certification) will be carefully reviewed by G-LEL.

The selected contractor will have a continuing obligation to identify conflicts that may arise because of changes in corporate identity, affiliation, structure, ownership, or changes to the contract. In the event an OCI is discovered after G-MSO has selected a contractor, or a contract award from the applicant, the contractor shall immediately stop work on the assigned task. They will then notify the staff of G-LEL and attempt to mitigate the conflict by implementation of another mitigation plan with G-LEL. The G-LEL decision concerning the adequacy of the mitigation, or the status of the contractor shall be final. Any post-contract OCI issue or problem shall be reported directly to the G-MSO staff. The contractor may not communicate directly with the applicant about any OCI discovered after award without written authorization from G-LEL.

Subcontractors and affiliates must also submit an OCI Statement and, where necessary, mitigation plans to resolve real or perceived OCIs.

Role of USCG: It is the policy of the USCG to identify and avoid, or to mitigate an OCI before selecting a third-party contractor.

Generally, in addition to the above, the Coast Guard considers two questions to determine whether an OCI exists:

- o Are there conflicting roles (including potential financial involvement), which might bias a contractor's judgment in relation to its work for the USCG?; and,
- o Is the contractor being given an unfair competitive advantage based on the performance of the contract?

Coast Guard personnel will examine, with particular care, proposed work that calls for advise, consultation, or evaluation in areas that will directly influence USCG decisions about future regulatory activities.

Using common sense and good business judgment, G-LEL will determine whether an OCI exists after examining:

- o All relevant facts submitted by the contractor;
- o The statement of work; and,
- o Information gained from other sources.

If an OCI does exist, G-LEL shall require the contractor to submit an acceptable mitigation plan. If the conflict cannot be resolved through an adequate mitigation plan, the contractor will be ineligible for selection or for proceeding with the third-party contract.

Section 4-2: OCI Disclosure & Representation (OCI Statement) Requirements

All prospective contractors must submit as part of their proposals, a statement of Organizational Conflicts of Interest Disclosure or Representations (OCI Statement; see Appendix E). Specifically, contractors must reveal all relationships, including ownership interests, with all USCG affected businesses, including related shipping, refining, connecting pipeline, wholesale, retail, or financing of the material transported through the port or of a technological substitute. Contractors must state whether or not there is an OCI, and if so, to what extent. They must also provide an abstract listing all of the above entities with which it, or its subcontractors, have had a business relationship and indicate whether or not that relationship results in a real or perceived conflict. In the event an apparent or real conflict is listed, a detailed mitigation plan to resolve and isolate any OCI should be included in the abstract. Guidance regarding the OCI Statement, including requirements and definitions, are provided in this section.

What Documents To File: The contractor must submit (as a separate volume) the following documents from each of the entities listed below:

1) Either the OCI Representation Statement (representing that the contractor has no OCIs), or OCI Disclosure Statement (in the event that the contractor has information relevant to a potential OCI). (See *Appendix E*.) If the OCI Disclosure Statement is signed, an attachment must be provided to show the information required; or,

2) The OCI Questionnaire (see *Appendix F*). If any questions were answered "YES," an attachment must be provided which provides an explanation or other exemplifying information. Please do not reference any information in other sections of the proposal.

(Notice: Apart from other remedies allowed by law or contract, any deliberate non-disclosure or misrepresentation of facts relevant to the OCI disclosure required by the USCG may result in disqualification of the contractor from this and future third-party contracts.)

Who Must File: The types of entities or individuals required to complete the forms listed in 1) or 2) above are as follows:

- o The prime contractor;
- The subcontractor(s) (except if only supplies are provided) and consultants at every tier;
- o All affiliates of the foregoing;
- o Any entities owned or represented by the chief executives or directors of:
 - The prime contractor;
 - Any of the subcontractors, except for those only providing supplies; and,
 - Any of the consultants.
- Chief executives and directors, if they will be involved in performing the proposed work of:
 - The prime contractor;
 - The subcontractors at every tier (except for subcontractors which are only providing supplies); The consultants at every tier; and,
 - All affiliates of the foregoing.

Section 4-3: Ex-Parte Requirements

Under these guidelines, ex-parte shall be deemed to exist, if there are communications performed between the applicant and the contractor, which are not otherwise disclosed or previously indicated to G-MSO. In order to avoid all possibilities of prejudice, real or apparent, to the public interest and persons involved in the application pending before the USCG, ex-parte communications between nongovernmental entities (including the applicant) and a third-party contractor under G-MSO supervision and control will be restricted. An exparte communication can be either written or oral and is:

- Off the record; and,
- Deals with the merits of the DWP license application.

The contractor shall report all ex-parte communications to G-LEL. The contractor will refrain from communications related to the adjudication with nongovernmental entities that could be affected by the adjudication, including the Applicant, except for data gathering inquiries, public meetings and meetings initiated by governmental entities. This is to protect the deliberative process of the environmental assessment and protect the appearance of impartiality. This does not prohibit the contractor from clarifying for a party metters that have been made public, e.g. on a posting or at a public meeting. Nor does it prohibit discussions between the contractor and the applicant as to contract administrative matters, e.g. their payment, contract termination, etc.

Communications are generally not ex-parte if reasonable prior notice has been given to G-MSO.

Contact: Direct all inquiries regarding OCI and ex-parte to:

U.S. Coast Guard (G-LEL) Office of Environmental Law 2100 Second St. SW Washington, DC 20593-0001 Office: (202) 267-0053.

Section 4-4: Indemnification and Hold Harmless

The applicant and each prospective contractor and subcontractor must complete and sign separate Indemnification and Hold Harmless Forms.

Contact: Direct all inquiries regarding Indemnification and Hold Harmless statements to: U.S. Coast Guard (G-LEL)
Office of Environmental Law
2100 Second St. SW
Washington, DC 20593-0001
Office: (202) 267-0053.

(See Appendix G for the Indemnification and Hold Harmless form.)

Section 4-5: Additional Contract Provisions

When the contract between the applicant and the third-party contractor is made, the applicant may insert any contractual provisions, terms and/or conditions that the USCG agrees are not inconsistent with this Handbook. These provisions may include some or all of the following items (list is not inclusive or in any particular order):

- o Ethics statement and applicant's code of conduct agreements;
- Quality assurance warranties;
- o Taxes;
- o Compliance with laws and regulations;
- Assignment of work and subcontracting:
- Termination of contract;
- Withholding and enforcement;
- o Ownership of work product;
- o Contractor performance;
- o Liability, indemnity and hold-harmless;
- o Insurance;
- o Bills & liens;
- o Drugs, alcohol and substance abuse program;
- o Audits;

- o Invoice requirements;
- o Agreement releases;
- o Affiliates and subsidiaries;
- o Pricing and price changes;
- o Confidential information and confidentiality agreements;
- o Hazard communication;
- o Dispute resolution;
- o Publicity;
- o Waivers; and,
- o Deliverables.

Section 4-6: Termination of Contract

The applicant's contract with the selected third party environmental contractor must indicate the terms under which the contract will be terminated. The terms must include procedures following fulfillment of the contract or upon approval of a LNG DWP license from the Secretary. The USCG must specifically approve any additional grounds, beyond those that are listed below. The applicant may further delegate its authority to terminate the contract to the G-MSO, if so desired.

At a minimum, the contract with the applicant may be voided and/or terminated if the contractor, or any of its subcontractors:

- Has unfavorable financial audit results (only if they impact a contract's ability to work or complete the NEPA documents).
- O Submits erroneous or false documents, forms or statements; or,
- o Fails to identify any pre-existing or new OCI(s).

G-MSO can recommend termination of a contract to the applicant if the contractor, or any of its subcontractors:

- o Fails to commit sufficient resources for timely completion;
- o Fails or refuses to complete major work tasks, as outlined or required; or,
- o Fails to identify any pre-existing or new OCI(s).

Recommendation for notice of contract termination must be given in writing to the USCG, the applicant and the contractor. Further terms and procedures for termination will be contained within the applicant's contract with the third party environmental contractor.

APPENDICES

Appendix A

Sample Request For Proposal

The following section presents a sample RFP. This generic document, based on the guidelines presented in Chapter 2, can be quickly and easily adapted for use if desired.

that are <i>italicized</i> supply guidance or have been included for illustration purposes.
Sample RFP:

Disclaimer: This is not a Federal Procurement.

The following Request For Proposals (RFP) will result in a private contract between (name of applicant) and a contractor, and will be governed by the laws of the State of (name of State). Neither the procurement nor administration of the resulting contract is subject to Federal procurement laws, regulations, or protest procedures. Any disputes not settled by the parties themselves must be resolved by a court of competent jurisdiction, or through alternative dispute resolution procedures to be determined by the parties and described in the contract.

Questions concerning this procurement should be directed only to (name of applicant). (Name of applicant) must provide information supplied to any individual offeror to all offerors submitting a letter of intent to respond to the RFP.

The United States Coast Guard, Office of Operating and Environmental Standards Division (G-MSO), should not be contacted and will not respond to any questions concerning the procurement process.

(Applicant Letterhead)

TO:

(Name of potential contractor)

FROM:

(Name and title of applicant point-of-contact)

(Name of applicant)

DATE:

(Insert Date)

SUBJECT: Request for Proposals (RFP) to Prepare an Environmental Impact Statement (EIS) for the (name of applicant or Deepwater Port Project) Deepwater Port Project.

(Proposal Due Date: by (insert date/time)

1.0 BACKGROUND AND OVERVIEW

1.1 INTRODUCTION

(Name of applicant) is soliciting proposals for the preparation of an Environmental Impact Statement (EIS) and related documents and services to address its proposed (name of applicant or project) Deepwater Port (DWP) Project as more specifically described in Section 1.2. The EIS will be prepared under a third-party environmental contractor arrangement with (name of applicant) as the Applicant, and the United States Coast Guard (USCG). The USCG Office of Operating and Environmental Standards (G-MSO) or its designee will be responsible for providing technical direction to the third-party environmental contractor during the preparation of the EIS and related documents. A contract will be executed pursuant to the third-party environmental contracting procedures set forth in the USCG's third-party environmental contracting handbook, dated 27Feb2004.

As the Applicant, (name of applicant) is soliciting proposals through this RFP. The technical and cost proposals will be initially reviewed by (name of applicant) who will then submit the top three proposals to the G-MSO staff. The G-MSO staff will make the final selection of the third-party contractor, based on its independent review of the technical, managerial, personnel, and Organizational Conflict of Interest (OCI) aspects of each proposal. Upon selection of the third-party environmental contractor, (name of applicant) will finalize a contract with the third party environmental contractor, and fund the contractor for the preparation of the EIS and any attendant activities. (Name of applicant) will be responsible for answering any questions from contractors not selected. following input from the USCG. Once a third-party contractor is selected, the G-MSO staff will direct the activities of the contractor in the preparation and processing of the EIS within the scope identified herein. (Name of applicant) will have no control over nor direct the activities of the contractor. The (name of Federal cooperating agencies), and possibly others will be cooperating agencies for compliance with the National Environmental Policy Act of 1969 (NEPA). Agencies in (affected States) may also participate.

1.2 OVERVIEW OF THE PROJECT

Summarize the general purpose of the project. Provide a detailed description of all proposed facilities.

1.3 AVAILABLE DATA

The proposed (name of applicant or project) DWP project is presented in detail in (name of applicant)'s (draft) application to the USCG for a License to operate a DWP, Exhibit - (name of exhibit). (Name of applicant) organized its Exhibit (exhibit name or ID) into the following (number of resource reports) resource reports:

- Resource Report 1. Project Description (Proposed Actions & Alternatives)
- Resource Report 2. Water Quality & Resources
- Resource Report 3. Biological Resources
- Resource Report 4. Cultural Resources
- Resource Report 5. Socioeconomics
- Resource Report 6. Geological Resources (Including Soils & Sediments)
- Resource Report 7. Land Use & Recreation
- Resource Report 8. Air and Noise Quality
- Resource Report 9. Reliability and Safety
- Resource Report 10. Transportation
- Resource Report 11. Risk Management
- Resource Report 12. CZMA (Visual Resources & Aesthetics)

The Resource Reports, except for those submitted as privileged (such as geological or soils resource reports), accompany this RFP. These documents must be reviewed in detail to gain an understanding of the proposed project and the level of available environmental data. This information should be assessed for any required supplemental analysis prior to the proposal preparation and submittal.

Discuss any additional sources of pertinent environmental data, such as coordination with other Federal agencies, or with State agencies. Include the status of the following items:

- All work complying with the Federal (and State) Endangered Species Act, including agency scoping, field surveys and preparation of Biological Assessment and Mitigation Plans;
- All work complying with the Coastal Zone Management Act, including a Finding of Consistency:
- Status of applications for CAA and NPDES permits; and,
- Status of applications for ACOE permit(s).

It is expected that the available data (along with the site-specific information, as discussed above), will facilitate the preparation of the EIS. Attachment 1 (provide attachment 1) provides a list of the available background documents. Proposals submitted in response to this RFP should clearly demonstrate an understanding of the extent of the (available/provided) information. Perceived data gaps and the need for specific supplemental studies to fully comply with the EIS requirements should be identified.

1.4 SCHEDULE OF DELIVERABLES

The time lines below and in Appendix B are for illustration purposes only. In the "Contractor Selection" section, applicants should design their own schedule for

contractor screening and completion of contract negotiations. G-MSO expects to be able to select a third-party contractor shortly after the application has been filed. Once the contractor is hired, G-MSO recommends that a Notice of Intent along with a mailing list be provided within 7 days. Intervals in the remaining portion of the "EIS Preparation" section represent an EIS schedule where cooperating agencies play a major role. In the absence of significant cooperating agency involvement, the time allotted for an advance preliminary draft document and cooperating agency review of the preliminary draft document could be substantially reduced or eliminated. Applicants are encouraged to suggest areas where timesavings may be achieved. However, applicant-proposed dates will be considered in light of G-MSO staff workload and regulatory requirements as the RFP is being reviewed.

Adherence to the proposed schedule is essential. Assuming (name of applicant) responds expeditiously to data requests, the schedule (in calendar days) is as follows:

<u>Third-Party Contractor Selection</u>: Suggest completion prior to filing DWP application with the USCG.

- Send out RFP to prospective contractors: (day 1)
- Hold contractors' conference (optional): (day 6)
- Submit proposals to (name of applicant): by (time/date) (day 17)
- File application with USCG; include top three technical proposals: (day 36)
- USCG selects contractor (5 days): (day 41)
- Complete contract negotiations with (name of applicant): (day 56)

EIS Preparation (from date when the application is deemed complete): See Appendix B for further details.

1.5 LETTER OF INTENT

Prospective third-party contractors shall submit a Letter of Intent, at or before the Contractors' Conference, if held, to offer a proposal to (name of applicant) at the address listed at the end of Section 3.0. Those submitting a Letter of Intent will receive amendments to the RFP, if any, and copies of any written materials from the Conference as described in Section 1.6 below. This letter will facilitate the distribution of written information but does not obligate the contractor to submit a proposal.

1.6 CONTRACTOR'S CONFERENCE (OPTIONAL)

A contractor's conference (will/will not) be held by (name of applicant). A field, include the following:) The contractor's conference will be held (provide heating) on (insert time & date). At the conference, questions will be answered by (name of applicant). Prospective contractors who submit a letter of intent and who do not attend the conference will be notified of any modifications and receive a copy of the minutes of the meeting within two (2) days of the meeting if a telephone facsimile number is provided. Otherwise, minutes of the meeting will be provided via (mail, e-mail, fax).

Specifically, (name of applicant) will:

Answer contractors' questions about the RFP;

- Provide copies of any other information to be used in the submission of a proposal; and,
- Entertain requests for other background documents that may be available for use during the preparation of the proposal but were not sent to prospective contractors.

All prospective third-party contractors are strongly encouraged to attend this conference since this is the only opportunity to receive responses to questions.

2.0 SERVICES REQUIRED

The selected third-party contractor will be responsible for preparing an EIS and completing related work, within the agreed-upon schedule and approved budget. It will be the contractor's responsibility to notify (name of applicant) if the work effort ultimately required for statutory and regulatory compliance as presented by G-MSO exceeds the approved budget.

The third-party contractor will be responsible for satisfactory completion of the following tasks:

- O Prepare, print and mail the various EIS documents and any required notices. In addition to paper copies, all documents, notices, and reports must be provided to the G-MSO staff. Any required databases (such as mailing lists) must be Paradox compatible;
- O Prepare notices and presentation materials for public scoping meetings and public comment meetings on the EIS. All public meetings will be recorded and transcribed for the official record. This task will require close coordination with the G-MSO environmental project manager. Required work will include arranging for meeting places, hiring court reporters, developing materials for meetings, accommodating special-needs requests, participating in meetings, and preparing reports summarizing the results of the scoping meetings/process and public meetings on the EIS. Assume scoping meetings and public comment meetings at: (identify tentative locations by city and state);
- Prepare and maintain a computerized mailing list of agencies, community/ environmental groups, concerned citizens, property owners and known interested parties;
- Characterize existing environmental conditions, incorporate issues identified during scoping, assess potential environmental effects and significance associated with implementation of the proposed project, identify potential route alternatives, and determine the mitigation necessary to reduce any impacts to acceptable levels for the environmental topics listed under Task 2.5. Studies shall take into account project facilities construction, operation and maintenance, and any other pertinent factors for all proposed and alternative project facilities and other necessary aspects. The environmental resource reports contained in the application and other already available technical data shall be used to the maximum extent practicable;

- O Prepare the EIS to meet the requirements of NEPA, the National Historic Preservation Act, Federal (and State, if relevant) Endangered Species Acts, Coastal Zone Management Act, other applicable laws and regulations and any additional requirements as identified by the G-MSO staff, and/or to respond to scoping and public hearing issues. The EIS shall include, but not necessarily be limited to, the following sections:
 - 1. Cover sheet;
 - 2. Executive summary (including impact tables);
 - 3. Introduction;
 - 4. Description of proposed project and alternatives;
 - 5. Affected environment;
 - 6. Environmental consequences (including cumulative impacts);
 - 7. Comparison of alternatives;
 - 8. Conclusions (including unavoidable significant adverse effects) and recommendations (mitigation measures, including mitigation monitoring plan);
 - 9. Agencies and sources consulted;
 - 10. List of preparers and contributors;
 - 11. References;
 - 12. List of agencies, etc., copies were sent;
 - 13. Index;
 - 14. Comments and responses (EIS only); and,
 - 15. Appendices and other technical reports (including summary of biological assessment).
- o Prepare a description of the Proposed Project and Alternatives, which should include, at a minimum, the following subsections:
 - 1. Purposes and need for the project;
 - 2. Approvals to be sought through use of the EIS;
 - 3. Design parameters;
 - 4. Construction schedule and work force;
 - 5. Operation and maintenance procedures;
 - 6. Abandonment procedures:
 - 7. Interrelationships with other planned projects; and,
 - 8. Alternatives (including no action alternative).
- The contractor shall review the Environmental Resource Reports for accuracy and adequacy to meet the needs of NEPA for the preparation of an EIS, and prepare data request to the applicant (routed through the G-MSO staff) requesting any other data that may be needed. The Affected Environment, Environmental Consequences, Comparison of Alternatives, and other sections should fully address the resource topics (as applicable). See section 1.3 "Resource Reports";
- Prepare supporting maps showing the location of all project facilities against areas of disturbance, and pertinent resource data;

- o Maintain ongoing review of potential environmental issues and assessment of the overall adequacy and scope of the environmental analysis. The G-MSO staff shall be advised immediately of any potential data gaps or analysis shortcomings;
- Analyze and prepare draft responses to comments on the draft and final EIS documents;
- Develop and maintain a formal project management system to allow for weekly or biweekly, as mutually agreed to, tracking of schedule and budget status for the prime contractor and any subcontractors;
- o Prepare a Biological Assessment, if appropriate;
- Develop and propose a post license mitigation compliance-monitoring program.
 (Cost of implementation will be subject to a separate contract after the USCG certifies the project. However, as with the EIS preparation, the contractor will work independently with the G-MSO staff.); and,
- o Prepare an administrative record to support the Record of Decision.

3.0 PROPOSAL REQUIREMENTS

If a prospective contractor provides a Letter of Intent to bid on the RFP, and subsequently does not intend to submit a proposal, please notify (name of applicant) as soon as possible, but in any event no later than (insert number of days) days prior to the contractors' conference. Prospective contractors must provide five (5) copies of the technical proposal and cost estimate; (name of applicant) will coordinate distribution. Cost estimates must be submitted in separate sealed envelopes. The proposal is limited to fifty (50) pages (single-sided, space and a half), except for explanations concerning an OCI. All materials should be easily readable. The proposal should be concise, well organized and contain the following information in the order presented:

Introduction: Explain the contractor's understanding of the project and a summary of the third-party contractor's qualifications for this project in one or two pages.

Technical Approach: Present both an overall technical approach for the preparation of the EIS and the approach proposed for individual technical areas and tasks. Include any recommendations to improve the scope, including rationale, and reflect those recommendations in the cost estimate.

Project Organization and Management Approach: Describe the proposed project organization, with an organization chart including positions, responsibilities and reporting relationships. The senior specialist and/or subcontractor(s) with responsibility for each resource area must be identified. If selected, these key personnel shall not be reassigned within the project or to other projects without prior written approval from the G-MSO staff.

Describe the proposed management scheme for the project, with a discussion of where the work will be done and where each key person and subcontractor presently reside.

Provide the proposed mechanisms for communication, reporting, technical direction and control, cost control, schedule control, quality control, quality assurance and control of subcontractors.

Qualifications and Experience: Describe qualifications and prior experience in completing similar NEPA compliance projects. Discuss your understanding of the USCG environmental requirements as reflected in its regulations and current policies.

Statements of qualifications and prior experience should be provided not only for the consulting firm but also for the key personnel and subcontractors that will be assigned to the project.

The past, current, and proposed use of small disadvantaged owned business enterprises by the contractors should be described.

Project Schedule: Submit a proposed schedule delineating dates for completion of the major work tasks specified in Section 2.0 of this RFP. The contractor must adhere to the completion dates as specified in Section 1.4 of this RFP. Any suggested modifications to your schedule must be presented with reasons for the changes.

References: List and describe three successfully completed or in-process projects of a similar nature with the name and phone number of your client's project manager. Additionally, list three client references specifically for your proposed project manager.

Conflicts of Interest: Identify possible conflicts of interest that may require investigation by the USCG's staff. Include a discussion of all work completed by the contractor for similar work on DWP projects within the last three years. Pursuant to 40 CFR 1506.5(c), contractor selection is based on ability and absence of conflict of interest and on the other selection criteria set forth in Section 4.1 hereof. All proposals must include:

- 1. Either the USCG's (a) OCI Representation Statement, or (b) OCI Disclosure Statement (in the event that the contractor has information relevant to a potential OCI). (See Enclosure X attached to this RFP), prepared by a responsible official attesting the contractor and its subcontractor(s) have no financial or other conflicting interest in the outcome of the project, or proposing a mitigation plan if an actual or potential OCI exists. If the OCI Disclosure Statement is signed, provide an attachment showing the information required.
- 2. The USCG's OCI Questionnaire (see Appendix XX attached to this RFP); if you answer any questions "YES," provide an attachment showing the information requested in detail. Please do not reference any information to other sections of your proposal.

Resumes: Resumes may be submitted as an attachment to the proposal or as a segmente volume.

Cost Estimate: Applicant should identify the type of contract, such as timewed materials, cost plus, etc., and provide additional guidance on how the cost of the contract is to be estimated.

Any limiting assumptions used to prepare the cost estimate should be clearly specified in the proposal. (Name of applicant) will keep the G-MSO environmental project manager informed of their efforts to negotiate an acceptable contract with the contractor. Also include a rate schedule that will apply to the project for any work beyond the scope stated in this RFP.

Assume that (name of applicant) will provide the successful contractor with maps, air photos, and computerized mailing lists of agencies, property owners and known interested parties at the time that contract negotiations are completed.

Documents: Attachment Y presents a list of documents available for review from (name of applicant) that should assist contractors in preparation of their proposals. Please contact (name, title and telephone number of applicant contact) to arrange for review of these documents.

Sample Contract: Attachment Z to this RFP presents a sample (name of applicant) contract. The proposal must indicate the contractor's review and acceptance of the contract or identify issues, which require resolution during negotiations. Issues raised after submittal of the proposal will not be subject to negotiation. The person(s) authorized to negotiate on behalf of the prospective contractor should be identified. (Name of applicant), in consultation with the G-MSO staff, reserves the right to reject any or all submittals as outlined in the selection criteria and within the United States Coast Guard's third party environmental contracting handbook.

Addresses: Submit Letters of Intent, Technical Proposals and Cost Estimates to:

(Name, address, and facsimile number of applicant contact(s))

4.0 SELECTION CRITERIA

Only those proposals submitted by contractors prior to the deadline stated herein will be evaluated. The proposals will be initially reviewed by (name of applicant), and the top three qualified proposals will then be submitted to the G-MSO staff. The G-MSO staff will make the final selection of the contractor. Lack of an OCI Statement, or the existence of an identifiable OCI (relative to either the contractor, its key personnel, or any proposed subcontractor) that cannot be mitigated to the satisfaction of the USCG's staff, will be sufficient grounds for proposal rejection. (Name of applicant) will be responsible for answering any questions from non-selected contractors, following receipt of information from the United States Coast Guard.

4.1 SELECTION CRITERIA AND MINIMUM STANDARDS

Applicant's Selection Criteria - The applicant will review, evaluate and prioritize each proposal that has been received, against the screening criteria listed in this section. Once all of the proposals have been prioritized, the applicant shall select the three(3) highest scoring contractors for forwarding to the USCG.

The following are "go, no-go" criteria to determine if a potential contractor has met the minimum standards. A proposal that fails to meet minimum for <u>all</u> of these criteria (where applicable) will not be considered for further review:

- o All documents and materials requested in the RFP have been provided;
- All key items listed in the RFP or discussed in follow-up clarification meetings have been supplied or addressed;
- o OCI questionnaire and the OCI statement have both been completed and provided;
- OCI mitigation or explanation documents included (if applicable only if OCI has been noted);
- Adequate financial resources demonstrated, with explanations of any negative aspects of the latest Dun & Bradstreet, and copies provided of the latest annual audit of firm; and,
- o Executed Indemnification and Hold Harmless Forms.

Each proposal shall be gauged against each of the following standards and criteria. These items shall be weighed equally, and this section will carry a majority (60%) of the combined maximum score in the applicant selection process (12% each):

- Level of familiarity and experience with environmental regulations and procedures, for satisfying NEPA, USCG and related requirements;
- Contractor's experience and ability to prepare NEPA documents of repeatable quality must be demonstrated;
- o Extent of the contractor's history and prior experience in managing major NEPA documents, preparing NEPA environmental documents for construction projects, facilities, environmental consulting work, and/or any other history of ecological work in the past three years;
- Magnitude and reasonableness of the contractor's rates and total cost estimates for the project; and,
- o Extent of contractor's history and work experience with the region where the applicant's facility will be located, with the adjacent coastal State's agencies, and with the other federal agency offices that will be involved (local and regional EPA, NOAA, MMS, ACOE, etc. offices).

In this third section, each proposal shall be gauged against each of the following standards and criteria. These items shall be weighed equally, and this section will carry a minority (40%) of the combined maximum score in the applicant selection process (8% each):

- Extent of the contractor's experience with LNG, outer-continental shelfactivities, and marine transportation;
- o The amount of experience and education of the prospective contractor's rey personnel (project manager, deputy project manager, environmental/NEFA specialists, subcontractors and administrative support personnel who will be involved):
- o Scope of the contractor's financial resources and the company's level of financial stability;
- o Ability to assign and commit sufficient key personnel for the duration of the project: and,

 Degree of familiarity with how to proceed in the environmental evaluation of the proposed project, understanding of the available data, identification of possible issues and a description of needed supplemental information.

<u>USCG's Minimum Threshold Standards</u>: Once the applicant has completed the three-step preliminary screening of the proposals, and has selected the three (3) highest scoring proposals for submission to the USCG, the G-MSO staff will then evaluate each proposal forwarded, pursuant to the following criteria and standards:

Each proposal must satisfactorily pass all of the following "pass or fail" criteria:

- USCG's OCI requirements have been satisfactorily met by the prospective contractor, their key personnel and any subcontractors, including satisfactory explanations and/or mitigating circumstances for any identified OCI's, if applicable;
- Favorable OCI certification for the prospective contractor has been received from the applicant; and,
- o Satisfactory completion of an Indemnification and Hold Harmless form (see section 4-4 and Appendix G).

Each proposal will then be compared and evaluated against the following criteria:

- o Demonstrated ability to meet schedule requirements;
- o Demonstrated ability to produce a quality product; and,
- o Adequate level of experience, in personnel education, work history and compliance with NEPA.

In considering the goals of timeliness and quality, a significant risk identified in any area may impact selection determination. Other factors not otherwise identified may be applied in the selection process and for making the final contractor selection. Any criteria not listed or previously identified will be fully disclosed and explained when the notice of final selection has been given to the applicant.

Final selection of a third party contractor will be made by the USCG within five (5) days of receiving the pre-screened and qualified packages from the license applicant. G-MSO will provide notification of the final selection in writing to the applicant.

Additionally, G-MSO will provide a statement to the applicant that provides information on how selection was performed, to what standards and criteria, and how each prospective contractor faired against the criteria.

As soon as practical, and within fifteen (15) days, the applicant will award a contract to the third-party contractor identified in the G-MSO Chief's approval letter to provide the necessary services to the G-MSO staff. The applicant and the contractor will determine the appropriate form of agreement for payment of the contractor by the applicant.

As soon as practical, a liaison from the third party contractor must be prepared to begin work at CG Headquarters, office of G-MSO, for the duration of the project. This need not be the project manager, however, the liaison must be a key project officer.

4.2 SELECTION OF THE THIRD PARTY CONTRACTOR

Each qualified contractor will be ranked using the qualification appraisal and the cost proposal. (Name of applicant) will provide the G-MSO staff with the ranking and copies of the top three contractors' proposals, along with the contractors' OCI statements and (name of applicant's) OCI certification of each contractor. The USCG staff will then conduct an independent review of the proposals and make a selection. Once the G-MSO staff has notified (name of applicant) of its selection, (name of applicant) will negotiate and fund a contract with the contractor. (Name of applicant) will keep the G-MSO staff informed of the negotiations with the contractor. Once contract terms are completed, the contractor will proceed to work solely under the direction and guidance of the G-MSO staff. Pursuant to 40 CFR 1506.5(c) the responsible official, the G-MSO staff, "shall furnish guidance and participate in the preparation and shall independently evaluate the [environmental document] prior to its approval and take responsibility for its scope and contents."

This sample RFP is set up to include two attachments; a list of available background documents and a sample contract. The attachments should be structured as follows:

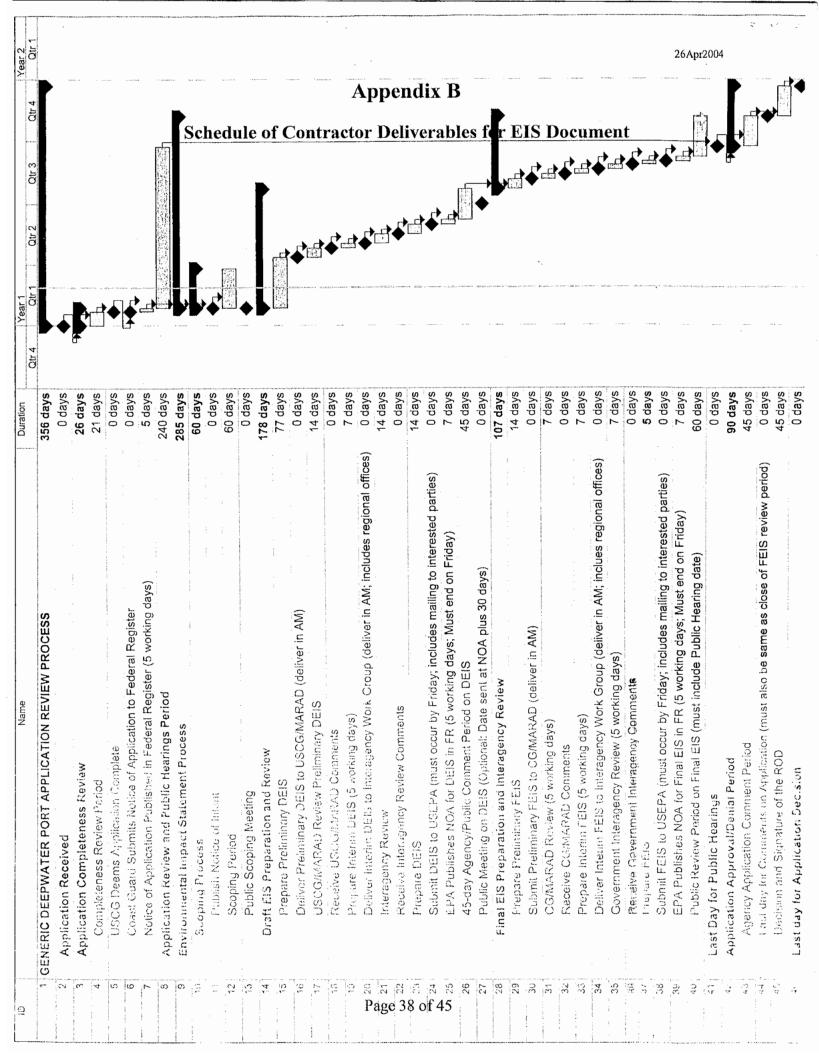
The following background documents are available for review and should be reviewed by all prospective contractors prior to preparation and submittal of proposals in response to this RFP:

- o (*Draft*) USCG Deepwater Port Application, Environmental Exhibits for the (name of proposed project);
- 1 set of (*draft*) alignment sheets;
- o 1 set of (*draft*) quadrangle maps;
- o (Any other major State or Federal applications containing pertinent environmental data); and,
- O USCG FEISs for the (name of recent USCG's EISs) projects and other recent USCG-prepared EISs.

These documents (as well as other project-related documents not provided with the RFP) are available for review on the premises of:

(party, location)

Contact: (name) (telephone number)



Appendix C

Schedule of Contractor Deliverables for EA Document

This page has been intentionally left blank, and is reserved for an EA schedule, if needed.

Appendix D

Organizational Conflict of Interest - Applicant Certification

(applicant's letterhead)

OCI Certification:

I, (reporting individual), am responsible for reviewing proposals received in response to (name of applicant's) Request for Proposals for the preparation of an Environmental (Assessment/Impact Statement) and related documents and services for the proposed DWP Project.

I have reviewed the proposal of (name of contractor) for Organizational Conflicts of Interest. Based upon a review of the information contained in the OCI Representation or OCI Disclosure and any abstract or mitigation plan submitted by (name of contractor), in my opinion, (name of contractor) is capable of impartially performing the environmental services, assuming proper implementation of any mitigation plan submitted by (name of contractor).

Signature: Title:

Date:

Appendix E

Organizational Conflicts of Interest Representation/Disclosure

COMPLETE EITHER THE REPRESENTATION OR THE DISCLOSURE STATEMENT -- NOT BOTH

OCI Representation Statement:

Signature:___

I hereby certify (or as a representative of my organization, I hereby certify) that, to the best of my knowledge and belief, no facts exist relevant to any past, present or currently planned interest or activity (financial, contractual, personal, organizational or otherwise) that relate to the proposed work and bear on whether I have (or the organization has) a possible conflict of interest with respect to (1) being able to render impartial, technically sound, and objective assistance or advice; or (2) being given an unfair competitive advantage.*

Organization:

Title:						
OCI Disclosure Statement						
my knowledge and belief, all relevant far interests or activities (financial, contractor proposed work and bear on whether I has with respect to (1) being able to render in	Smy organization, I hereby certify) that, to the best of cts concerning past, present or currently planned all, organizational or otherwise) that relate to the ve (or the organization has) a possible conflict of interest inpartial, technically sound, and objective assistance or petitive advantage * are fully disclosed on the attached					
 financial, and other; The company, agency, organization is interest or activity (financial, contract Brief description of relationship; Period of relationship; 	ollowing data into four parts: organizational contractual, in which you have a past, present, or currently planned tual, organizational, or otherwise); of financial interest of work; percent of total in lightings,					
Signature:	Date:					
Name:Title:	Organization:					

* An unfair competitive advantage does not include the normal flow of benefits from the performance of the contract.

Appendix F

Organizational Conflicts of Interest Questionnaire

•	ne of Pe ganizatio			
OCI	Questi	onnaire		
Marl	c each q	uestion accordingly:		
1.		Vill you (or your organization) be involved in the performance of any portion of the roposed work?		
	()	No. Yes. The portion of the proposed work, the proposed hours and dollar value, and the type of involvement are fully disclosed on the attached pages.		
2.	What is (are) the major type(s) of business conducted by you (or your organization)? Please reply on the attached pages.			
3.	Do yo	ou (or your organization) have any affiliates? *		
	()	No. Yes. The name and a description of the major type(s) of business that each affiliate conducts is disclosed on the attached pages.		
		any of the following be involved in performing the proposed work: (a) any entities d or represented by you (or your organization); (b) your organization's Chief ative or any of its directors; or (c) any affiliates? *		
	()	No. Yes. A full disclosure and discussion is given in the attached pages.		
5. Are you (or your organization) an energy concern? *		ou (or your organization) an energy concern? *		
	()	No. Yes. A full disclosure and discussion is given on the attached pages.		
6.	organ	ou (or your organization) have a direct or indirect relationship (financial, izational, contractual or otherwise) with any business entity that could be affected in yay by the proposed work?		
	()	No.		
	()	Yes. List the business entity(ies) showing the nature of your relationship and how it would be affected by the proposed work		

7.	What percentage of your total income for the current and preceding fiscal years res from arrangements with any of the entities identified in Question 6 above?			
	% %	For the current fiscal year from/_/ to/ For the preceding fiscal year from/_/ to/		
8.	arrang admin	ou (or your organization) currently have or have you had during the last 6 years any gements (for example, contracts and cooperative agreements) awarded, histered, or funded wholly or partly by the Coast Guard or any other Federal y which relate to the proposed Statement of Work?		
	()	No. Yes. A full disclosure and discussion is given on the attached pages.		
9.	specia	Do you (or your organization) have or have you ever had any contracts, agreements, special clauses, or other arrangements which prohibit you (or your organization) from proposing work to be performed in this solicitation or any portion thereof?		
	()	No.		
	,	Yes. A full disclosure and discussion is given on the attached pages.		
		ou (or your organization) have any involvement with or interest (direct or indirect) in ologies which are or may be subjects of the contract, or which may be substitutable ch technologies?		
	()	No. Yes. A full disclosure and discussion is given on the attached pages.		
11.		Could you (or your organization) in either your private or Federal Government business pursuits, use information acquired in the performance of the proposed work; such as:		
	(a)	Data generated under the contract?		
	(b)	Information concerning Coast Guard plans and programs?		
	(c)	Confidential and proprietary data of others?		
	(), ()	No. Yes (to a, b or c). A fail disclosure and discussion is given on the amthcd pages.		
12.	Under service (such	the proposed work, will you (or your organization) evaluate or inspect your own res or products, or the services or products of any other entity that has arelationship as elient, organizational, financial, or other) with you (or your organization)? This include evaluating or inspecting a competitor's goods and services.		
	()	No. West A Fill dischasore and discussion is given on the attached pages.		

13.	your organization) propose to: exclude portions of the proposed work; employ special clauses; or take other measures?			
	()	No. Yes. A full discussion is given on No, however, the possibility of an This answer is briefly justified on	organizational conflict of interest is perceived.	
*	See definitions in Chapter 4 of the USCG's THIRD PARTY ENVIRONMENTAL CONTRACTING HANDBOOK.			
best o	of my k	nowledge and belief the facts and	my organization, if applicable, and that to the representations presented on the three pages of attachment to it are accurate and complete.	
Namo	e:		Date:Organization:	

Appendix G

Indemnification and Hold Harmless Form

Title:

TO:	(Title, name and office of USCG point-of-contact)			
FROM:	(Name and title of applicant, contractor or subcontractor point-of-contact) (Name of applicant, contractor or subcontractor)			
DATE:	(Insert Date)			
SUBJECT:	Indemnification and Hold Harmless statement for the (appname) Deepwater Port Project	olicant or project		
(Applicant, contractor, or subcontractor) has agreed to observe and abide by U.S. Coast Guard policies and federal regulations pertaining to this Deepwater Port project and license application process. In addition, (applicant, contractor or subcontractor) agrees to indemnify and hold harmless the United States Coast Guard, the Department of Homeland Security, the Maritime Administration, the Department of Transportation, and all of their personnel from and against any, claims, judgments, or lawsuits arising from damages alleged to have been caused by or attributed to the conduct of (applicant, contractor or subcontractor) in connection with this procurement, the administration or supervision of the contract, or for the environmental services described within the contract. Furthermore, the scope of this contract, and any subcontract, is limited to actions designed to further the Application and accordingly constitute costs to be reimbursed by the Applicant pursuant to 33 U.S.C. Section 1504. As the Applicant is paying contract costs directly, all				
Department of	owledge that no Federal funds are payable under this contract of Homeland Security, the Department of Transportation, and under the contract.			
Signature:	Date:			
Name:	Organization:	11-11-11-11-11-11-11-11-11-11-11-11-11-		